

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

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UNITED STATES OF AMERICA ex rel.	)	
TOBIAS GARRETT,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 08-2544
	)	
TERRY MCCANN, Warden,	)	The Honorable
	)	Ruben Castillo,
Respondent.	)	Judge Presiding.

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**MOTION FOR EXTENSION OF TIME**

Respondent, GERARDO ACEVEDO,<sup>1</sup> Warden of Hill Correctional Center, through his attorney, LISA MADIGAN, Attorney General of Illinois, hereby moves this Honorable Court for a thirty (30) day extension of time to answer or otherwise plead to the above-captioned petition for writ of habeas corpus, from July 15, 2008,

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<sup>1</sup> Terry McCann is the currently-named respondent in the instant petition. Gerardo Acevedo is the warden of Hill Correctional Center, where petitioner is incarcerated. Accordingly, Mr. Acevedo should be substituted as the proper party respondent. See Rule 2(a) of the Rules Governing § 2254 Cases in the United States District Courts; Fed. R. Civ. P. 25(d)(1); *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004) (citing *Hogan v. Hanks*, 97 F.3d 189, 190 (7th Cir. 1996)); *Bridges v. Chambers*, 425 F.3d 1048, 1049-50 (7th Cir. 2005).



to and including August 14, 2008. An affidavit in support of this motion is attached.

July 14, 2008

Respectfully submitted,

LISA MADIGAN  
Attorney General of Illinois

By: s/ Garson Fischer  
GARSON FISCHER, Bar # 6286165  
Assistant Attorney General  
100 West Randolph Street, 12th Floor  
Chicago, Illinois 60601-3218  
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State of Illinois     )  
                              ) SS.  
County of Cook     )

A F F I D A V I T

GARSON FISCHER, being first duly sworn upon oath, deposes and states as follows:

1.     That I am the Assistant Illinois Attorney General assigned to handle this matter.

2.     That on May 5, 2008, petitioner filed the instant habeas petition in the United States District Court for the Northern District of Illinois. On June 6, 2008, this Court dismissed the petition for failure to pay the filing fee or file a petition for leave to proceed in forma pauperis. On June 9, 2008, this Court received the petitioner's fee, and on June 24, 2008, reopened the case.

3.     That respondent, Gerardo Acevedo, was ordered to respond to the instant federal habeas corpus petition on or before July 15, 2008, by this Court's order of June 24, 2008.

4     That affiant was assigned to this case on June 30, 2008.

5.     That despite due diligence, your affiant will be unable to file a response on behalf of respondent by July 15, 2008.

6.     That this is respondent's first request for an extension of time to answer or otherwise plead to the instant petition for writ of habeas corpus.

7.     That your affiant has ordered, but not yet received, all of the state court materials necessary for filing an informed response to the instant petition.



8. That this motion is not for purposes of delay, but is being made solely to ensure that respondent's interests are adequately protected.

9. That respondent respectfully request that this Honorable Court grant his thirty (30) day motion for an extension of time to and including August 14, 2008, within which to file his answer or otherwise plead to the instant petition for writ of habeas corpus.

FURTHER AFFIANT SAYETH NOT.

/s/ Garson Fischer

GARSON FISCHER



**CERTIFICATE OF SERVICE**

I hereby certify that on July 14, 2008, I electronically filed respondent's **Motion for an Extension of Time** with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, using the CM/ECF system, and on the same date, I mailed by United States Postal Service the same to the following non-registered party:

Tobias Garrett, #R05862  
Hill Correctional Center  
600 South Linwood Road  
P.O. Box 1700  
Galesburg, Illinois 61402.

LISA MADIGAN  
Attorney General of Illinois

By: s/ Garson Fischer  
GARSON FISCHER, Bar # 6286165  
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